

AMENDMENTS TO THE DRAWINGS:

Please amend without prejudice the Drawings by replacing previous Replacement Sheet 1 with new Replacement Sheet 1 which accompanies this Response. Relative to previous Replacement Sheet 1, FIG. 3 is correctly labeled as such, and the labels “Environmental Sensor System,” “Processor,” “Control Unit” and “Restraining Devices” have been respectively added to boxes 30, 31, 34 and 35 of FIG. 3. No new matter has been added. The added text is supported by the present application. Approval and entry are respectfully requested.

REMARKS

Claims 14 to 16 are cancelled without prejudice, claims 31 to 33 are added, and therefore claims 11 to 13 and 17 to 33 are currently pending.

Reconsideration of the application is respectfully requested based on the following remarks.

Applicants respectfully note that various papers from the Office, including the Filing Receipt and paragraph 1 of the Office Action, incorrectly state the title of the present application as being "Device for the Classification of a Least One Object by Means of an Environmental Sensor." Correspondence to date from the Applicant has correctly indicated the title of the present application to be "DEVICE FOR CLASSIFYING AT LEAST ONE OBJECT WITH THE AID OF AN ENVIRONMENTAL SENSOR SYSTEM." Therefore, the Applicants respectfully request that the Office correct their records with regards to the title of the present application. Applicants are filing a formal Notice to Correct the Filing Receipt.

With respect to paragraph 2 of the Office Action, the drawings were objected to as to 37 CFR 1.84(p)(4). Specifically, the Office Action states that "*reference character '24' has been used to designate both Crashparameter and Steuerung Rückhalte-systeme.*" However, in response, Applicants respectfully note that as part of a Preliminary Amendment filed at the time of entry of the present application into the national stage under 35 USC 371, i.e. on July 1, 2005, a Replacement Sheet of drawings was submitted which amended, among other things, one of the reference numbers 24 to instead be reference number 26.

Further regarding the objection to the drawings, the Office Action also states: "*[t]he drawings of Figures 2 and 3 (?) are further objected to because Fig. 2 is not labeled in English, and because the lowermost drawing (possibly a figure 3) does not have its block diagram components labeled (in any language), nor to be labeled as being any particular Figure number (i.e., Fig. 3).*" In response, Applicants firstly note that the Replacement Sheet filed on July 1, 2005, included amended labels "Classification Algorithm" "Object Class" and "Restraint Systems Control" for boxes 22, 23 and 26, respectively, of FIG. 2. Secondly, Applicants have submitted another Replacement Sheet with the present Amendment, in which FIG. 3 is labeled as such, and the labels "Environmental Sensor System," "Processor," "Control Unit" and "Restraining Devices" have been added to boxes 30, 31, 34 and 35, respectively, of FIG. 3. Therefore, withdrawal of this objection is respectfully requested.

With respect to paragraph 4 of the Office Action, claims 14 to 16 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. However, for other reasons, Applicants have canceled without prejudice claims 14-16. Therefore, the indefiniteness rejections are moot.

With respect to paragraph 5 of the Office Action, claims 11 to 30 were rejected under 35 U.S.C. § 102(e) as anticipated by Kellum, U.S. Patent Application Publication No. 2004/0153244 (the “Kellum” reference).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

Independent claim 11 is directed to a device for “*classifying at least one object with the aid of an environmental sensor system of a vehicle.*” Claim 11, as presented, includes the features in which “*the device is adapted to be coupled to a restraint system and is capable of controlling the restraint system as a function of the classification of the at least one object and a relative velocity of the at least one object relative to the vehicle.*”

The “Kellum” reference does not identically disclose (or even suggest) at least the above-identified claim features. That is, the “Kellum” reference does not identically disclose (or even suggest) the feature of at least a device which is adapted to be coupled to a restraint system and is capable of controlling the restraint system as a function of both a classification of an object and a relative velocity of an object. In the rejection of previously presented claims 11 and 14, the Office Action refers to paragraphs 0002 and 0003 of the “Kellum” reference. Specifically, as to previously presented claim 14 (which had similar subject matter to that presently added to independent claim 11), the Office Action refers to a portion of paragraph 0002 which states: “*a collision warning system (CWS) ... is intended to mitigate and/or eliminate vehicle impacts by generating a timely warning to the driver to take an evasive action*” (emphasis added).

However, stating that a collision warning system is intended to mitigate or eliminate vehicle impacts does not identically disclose either a device which is adapted to be coupled to a restraint system or a device which is capable of controlling the restraint system (as a function of both a classification of an object and a relative velocity of an object). That is, the “Kellum” reference is silent with respect to coupling the collision warning system to a restraint system. Furthermore, a collision warning system which, as stated in the “Kellum” reference, is intended to mitigate or eliminate vehicle impacts does not inherently include a device which is adapted to be coupled to a restraint system or which is capable of controlling the restraint system, because mitigating or eliminating vehicle impacts could be accomplished in many different ways, and therefore not necessarily, and thus not inherently, by coupling to, and controlling, a restraint system.

In another section, the Kellum reference also states: “*threat assessment block ... thereby determines whether there is a likelihood of an impact with a particular identified target object. If so, a corresponding signal is sent to the driver warning block 108, wherein an appropriate warning signal (e.g., a buzzer, warning light or other type of haptic feedback) is brought to the driver's attention*” (paragraph 0015, emphasis added). However, stating that the warning signal may be some type of haptic feedback also does not identically disclose (or even suggest) a device which is adapted to be coupled to a restraint system or which is capable of controlling the restraint system, because haptic feedback could include any number of different forms of feedback (e.g. through the steering wheel), and thus does not

necessarily, and therefore not inherently, including coupling to, and controlling, a restraint system.

Thus, the “Kellum” reference does not identically disclose (or even suggest) the feature in which “*the device is adapted to be coupled to a restraint system and is capable of controlling the restraint system as a function of the classification of the at least one object and a relative velocity of the object relative to the vehicle,*” as provided for in the context of the presently claimed subject matter.

Therefore, the above-discussed features of claim 1 are not identically disclosed (or even suggested) by the “Kellum” reference. Accordingly, claim 11 and its dependent claims 12 to 13 and 17 to 30 are allowable.

It is therefore respectfully requested that the anticipation rejections of claims 11 to 30 be withdrawn.

New claims 31 to 33 do not add any new matter and are supported by the present application. Regarding newly added claims 31 and 32, these claims depend from independent claim 11, and therefore are allowable for substantially the same reasons as discussed above in regards to the allowability of claim 11. Regarding newly added independent claim 33, this claim contains substantially similar features as independent claim 11, and therefore this claim is also allowable for substantially the same reasons as discussed above in regards to the allowability of claim 11.

Accordingly, claims 11 to 13 and 17 to 33 are allowable.

CONCLUSION

Applicants respectfully submit that all pending claims of the present application are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

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By: _____

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